

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

JOSE DANIEL ORELLANA	)	
JUAREZ,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
ANTONE MONIZ, Superintendent,	)	
Plymouth County Correctional Facility	)	
PATRICIA HYDE, Field Office Director,	)	
TODD LYONS, Acting Director U.S.	)	
Immigrations and Customs Enforcement,	)	
and KRISTI NOEM, U.S. Secretary	)	
of Homeland Security,	)	
	)	
Respondents.	)	
_____	)	

C.A. No. 25-11266-MJJ

**PETITIONER’S SUPPLEMENTAL STATUS REPORT**  
**PURSUANT TO MAY 12, 2025 ORDER**

Pursuant to the Court’s May 12, 2025 Order (D.E. 16), the parties submitted a joint status report on June 2. On June 3, after the joint status report was filed, Mr. Orellana’s immigration counsel became aware that Mr. Orellana’s Immigration Court docket had been updated at some point on June 2. The docket now states that the Immigration Judge closed Mr. Orellana’s removal proceeding “due to a failure to prosecute.” *See* Second Supplemental Decl. Mara J. Weisman, Esq. (“Second Supp. Weisman Decl.”) ¶ 2. It appears that Mr. Orellana is no longer in any pending immigration proceeding.<sup>1</sup> *See id.* ¶ 5.

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<sup>1</sup> The Notice to Appear (“NTA”) in Mr. Orellana’s removal proceeding was filed on or about May 29. Second Supp. Weisman Decl. ¶ 5. The NTA is the charging document that initiates the removal proceeding. *See* 8 C.F.R. § 1003.14(a). The regulations permit a detainee to request a bond hearing before the NTA is filed, *see id.*, which is the reason Mr. Orellana was able to

Mr. Orellana remains in ICE custody by virtue of his placement in the Intensive Supervision Appearance Program (“ISAP”) and the requirement that he wear a GPS monitor. *See* Joint Status Report (D.E. 20) at 5-6. But civil immigration custody cannot exist in a vacuum—principles of substantive due process require that it support valid regulatory goals in connection with an actual immigration proceeding. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (immigration detention must serve the non-punitive purposes of ensuring a noncitizen’s appearance at future immigration proceedings and preventing danger to the community during the immigration process).<sup>2</sup> Here, where there is no immigration proceeding because the Immigration Judge closed it, the continuing restrictions on Mr. Orellana’s liberty violate due process safeguards because they cannot possibly serve either of the permissible regulatory goals. Additionally, because there is no immigration proceeding that can be concluded, the restrictions on his liberty could easily become indefinite without the Court’s intervention. Mr. Orellana’s continued subjection to civil immigration custody, for no apparent purpose, is punitive in nature and therefore violates his fundamental due process right to liberty. For this reason, also, the Court should grant the requested relief.

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request a bond hearing on May 13 and receive one on May 27. *See* Supplemental Decl. Mara J. Weisman, Esq. (“First Supp. Weisman Decl.”) ¶¶ 4, 8.

<sup>2</sup> *See also Ercelik v. Hyde*, No. 1:25-CV-11007, 2025 WL 1361543, at 25-26 (D. Mass. May 8, 2025) (“[C]ivil detention cannot be punitive.”); *Ozturk v. Trump*, --- F. Supp. 3d ---, 2025 WL 1145250, at \*20 (D. Vt. Apr. 18, 2025) (“Rather than punishment, immigration detention must be motivated by the two valid regulatory goals that the government has previously argued motivate the statute: ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community.”).

Dated: June 4, 2025

Respectfully submitted,

/s/ Julian Bava

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